

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)

Act 58 of 1998

CHAPTER 11

436.2101 Sale of spirits and mixed spirit drink for consumption on premises; resolution; petition; notice; submission of question to electors; ballot; canvass; effect of tie vote; use of section to nullify referendum vote prohibited.

Sec. 1101. (1) Spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, may be sold by restaurants, hotels, and establishments approved by the commission under this act in the following cities, villages, or townships if the legislative body of the city, village, or township by resolution of a majority vote of the members elect, votes in favor of allowing that sale. A petition may be filed with the city, village, or township clerk requesting the submission of the question of sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine. In the case of a city or township, the petition shall be signed by a number of the registered and qualified electors which shall be not less than 35% of the total number of votes cast for all candidates for the office of secretary of state in that city or township at the last general election held for that purpose. In the case of a village, the petition shall be signed by a number of the registered and qualified electors that is not less than 35% of the total number of votes cast for all candidates for the office of president of the village at the last village election held for that purpose. The question shall not be submitted to the electors of a city, village, or township more often than once in every 2 years. The city, village, or township clerk shall, within 10 days after the petition is filed with the clerk, give notice of the filing by publication of notice setting forth the essential facts of the petition in a newspaper published or in general circulation in the city, village, or township. The city, village, or township clerk shall submit the question at the next regular state election held in the city, village, or township if the petitions are filed at least 60 days before the election. Class C licensees in a newly incorporated city or village shall continue to be licensed by the commission until the question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, is submitted to the electors of the city or village as provided in this section. The question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink in addition to beer and wine be permitted for consumption on the premises within the city, village, or township of under the provisions of the law governing same?

Yes

No

(2) All votes on the question submitted by ballot under subsection (1) shall be taken, counted, and canvassed in the same manner as votes cast in city, village, or township elections, as applicable, are taken, counted, and canvassed. Ballots shall be furnished by the election commission or similar body of the respective city, village, or township. If a majority of the electors voting at an election conducted under this section shall vote in favor of the question submitted by ballot under subsection (1), spirits and mixed spirit drink may be sold under this act in that city, village, or township for consumption on the premises, in addition to beer and wine.

(3) At any time within 18 months after an election conducted under this section has resulted in a tie vote, the question shall be resubmitted to the electors upon the filing of a petition with the legislative body of the city, village, or township. The petition shall be signed by a number of electors not less than that required under subsection (1) for the calling of an election on an original petition. The question shall be resubmitted to the electors by the city, village, or township clerk at the next regular election if that election occurs not less than 30 days and not more than 60 days after the filing of the petition or at a special election called for that purpose and to be held within not less than 30 days and not more than 60 days after the filing of the petition.

(4) This section shall not be used by the legislative body of a city, village, or township to nullify the results of a referendum vote of the electors of the city, village, or township.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.

436.2101a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 1101a. A petition under section 1101, 1107, 1111, or 1113, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 251, Eff. Mar. 23, 1999.

436.2103 Sale of spirits and mixed spirit drink for consumption on premises; annexation of territory to city prohibiting sale; continuance of license; referendum.

Sec. 1103. (1) If spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, may be sold by restaurants, hotels, and establishments approved by the commission in a city, village, or township and all or a part of that city, village, or township becomes annexed to and a part of a city or village that does not, at the time of annexation, permit those sales, class C licensees in that annexed area shall continue to be licensed by the commission until the next regular, city, or village election, at which election, without the need to file a petition, the question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, shall be submitted to the electors of the city or village to which the territory has been annexed.

(2) The form of the ballot, the voting and canvassing of votes, and the effect of the votes shall be as provided in section 1101.

(3) The fact that a vote has been taken upon that question either in the annexing municipality or in the annexed area, or in both, within 4 years before the annexation is not a bar to the submission of the question as provided in this section.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.

436.2105 Sale of spirits and mixed spirit drink for consumption on premises; referendum; license to serve spirits in addition to beer and wine for consumption on premises; application; approval; fee; referendum in certain townships.

Sec. 1105. (1) When the question of the sale of spirits and mixed spirit drink for consumption on the premises is submitted to and approved by the electors of a city, village, or township, and immediately after certification of the results of the election, all currently approved licensed establishments for consumption of beer and wine on the premises in the city, village, or township shall be licensed to serve spirits and mixed spirit drink in addition to beer and wine for consumption on the premises upon application to and approval by the commission and payment of the applicable license fee as specified in section 525.

(2) A township having incorporated villages within its boundaries may submit to the voters in the unincorporated portion of the township the question of sale of spirits and mixed spirit drink for consumption on the premises and the will of the electors outside of the incorporated villages shall decide the question for the unincorporated portion of the township.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.

436.2107 Manufacture and sale of alcoholic liquor; county option; form of ballot; notice of prohibition.

Sec. 1107. (1) Upon the filing with the county clerk of a petition signed by not less than 20% of the registered and qualified electors of any county of the entire vote cast for the office of secretary of state in that county at the last general election requesting the submission to the electors of that county of the question of the manufacture or sale of alcoholic liquor, or both, within that county, the county clerk shall submit the question at the next regular state election held in that county. A petition filed under this subsection shall be filed at least 60 days before the election. A ballot question under this subsection shall not be submitted to the electors more often than once in any 4-year period.

(2) All votes on the question shall be taken, counted, and canvassed in the same manner as votes cast for county offices are taken, counted, and canvassed. The vote on that question shall be by ballot, which ballots shall be furnished by the board of election commissioners of the county and shall be substantially in 1 of the following forms:

“1. Shall the manufacture of alcoholic liquor be prohibited in the county of?”

Yes

No

2. Shall the sale of alcoholic liquor be prohibited in the county of?”

Yes

No

3. Shall the manufacture and sale of alcoholic liquor be prohibited in the county of?”

Yes

No

(3) The effective date of the prohibition of the manufacture or sale, or both, as applicable, shall be 30 days after the board of county canvassers has determined that a majority of those voting on that question have

voted in favor of the prohibition. The county clerk shall give notice of the effective date of the prohibition by publishing the date at least once in a newspaper published in that county or, if no newspaper is published within the county, in a newspaper published in an adjoining county.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.

436.2109 Ordinance prohibiting retail sale of alcoholic liquor; adoption; duration; election; affirmance or revocation; prohibition.

Sec. 1109. (1) Notwithstanding section 1101, a city, village, or township in which there are no retail licenses for the sale of alcoholic liquor may, by ordinance, prohibit the retail sale of alcoholic liquor within its borders.

(2) An ordinance adopted under subsection (1) remains in effect until the next general or special election held not less than 45 days after the adoption of the ordinance. At that election, the ordinance shall be submitted to the electors of the city, village, or township for affirmance or revocation. A revocation of the ordinance is effective on the date the election results are certified.

(3) The commission shall not issue a license that violates an ordinance adopted under subsection (1).

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.

436.2111 Beer and wine; referendum as to Sunday sale; petition; form of ballot; taking, counting, and canvassing votes; prohibition.

Sec. 1111. (1) The sale of beer and wine between the hours of 2 a.m. and 12 midnight on Sunday may be prohibited in any county, city, village, or township by a majority vote of the electors voting at a regular state election. Not more often than once in every 4 years, upon the filing of a petition with the county, city, village, or township clerk, as applicable, requesting the submission of the question of the Sunday sale of beer and wine, the clerk shall submit that question to the electors of the county, city, village, or township at the next regular state election held in that county, city, village, or township. A petition filed under this subsection shall be filed not less than 60 days before the regular state election. A ballot question under this subsection shall not be submitted more often than once in any 4-year period.

(2) In the case of a county, city, or township, the petition shall be signed by a number of the registered and qualified electors of the county, city, or township that is not less than 35% of the total number of votes cast for all candidates for the office of secretary of state in that county, city, or township at the last general election held for that purpose and, in the case of a village the petition shall be signed by a number of the registered and qualified electors of the village that is less than 35% of the total number of votes cast for all candidates for the office of president of the village at the last village election held for that purpose.

(3) The question of the Sunday sale of beer and wine shall be submitted by ballot in substantially the following form:

“Shall the sale of beer and wine within (the county, city, village, or township as the case may be) between the hours of 2 a.m. and 12 midnight on Sunday be prohibited?

Yes

No

(4) All votes on the question submitted to the electors under this section shall be taken, counted, and canvassed in the same manner as votes cast in county, city, village, or township election, as applicable, are taken, counted, and canvassed. Ballots shall be furnished by the election commission or similar body of the respective county, city, village, or township. If a majority of the electors voting at an election conducted under this section vote in favor of the question submitted, the sale of beer and wine within that county, city, village, or township between the hours of 2 a.m. and 12 midnight on Sunday is prohibited.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.

436.2113 Selling at retail, giving away, furnishing, or buying spirits or mixed spirit drink on Sunday; sale of spirits or mixed spirit drink for consumption on or off premises on Sunday; resolution; petition; election; form of ballot; voting; violation as misdemeanor; exception; selling and buying alcoholic liquor from December 24 to 26; legislative bodies authorized to prohibit sale of alcoholic liquor on certain days.

Sec. 1113. (1) Except as provided in subsection (2), (3), or (5), a licensee enumerated under section 525 or any other person shall not sell at retail, give away, or furnish, and a person shall not knowingly and willfully buy, spirits or mixed spirit drink between the hours of 2 a.m. and 12 midnight on Sunday. If January 1 falls on Sunday, the hours may be extended to 4 a.m.

(2) If the legislative body of a county has authorized the sale of spirits and mixed spirit drink for consumption on the premises on Sunday, by resolution approved by a majority of the legislative body voting

on that resolution, the spirits and mixed spirit drink may be sold after 12 noon, EST, in an establishment licensed under this act in which the gross receipts derived from the sale of food and other goods and services exceed 50% of the total gross receipts. With respect to an action taken by the legislative body or if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question of the sale of spirits and mixed spirit drink for consumption on the premises in addition to beer and wine on Sunday. The petition shall be signed by a number of the registered and qualified electors of the county that is not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election held for that purpose. The question shall not be submitted to the electors of a county more than once every 4 years. The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before the election. The question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption on the premises be permitted on Sunday in an establishment licensed under the Michigan liquor control code of 1998 in which the gross receipts derived from the sale of food or other goods and services exceed 50% of the total gross receipts within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No ”.

(3) If the legislative body of a county has authorized the sale of spirits and mixed spirit drink for consumption off the premises on Sunday by resolution approved by a majority of the legislative body voting on the resolution, spirits and mixed spirit drink may be sold after 12 noon, EST, in a retail establishment licensed under this act. With respect to an action taken by the legislative body or if the legislative body fails to act, a petition may be filed with the county clerk requesting the submission of the question of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday. The petition shall be signed by a number of the registered and qualified electors of the county that is not less than 8% of the total number of votes cast for all candidates for the office of secretary of state in the county at the last general election shall not be held for that purpose. The question submitted to the electors of a county more than once every 4 years. The county clerk shall submit the question at the next regular state election held in the county if the petitions are filed not less than 60 days before the election. The question of the sale of spirits and mixed spirit drink for consumption off the premises, in addition to beer and wine, in a retail establishment licensed under this act on Sunday shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink for consumption off the premises be permitted on Sunday in a retail establishment licensed under the Michigan liquor control code of 1998 within the county of under the provisions of the law governing the sale of spirits and mixed spirit drink for consumption?

Yes

No ”.

(4) Votes on a question submitted under this section shall be taken, counted, and canvassed in the same manner as votes cast in county elections are taken, counted, and canvassed. A ballot shall be furnished by the election commission or similar body of the county. If a majority of the electors voting at an election vote in favor of the proposal, spirits and mixed spirit drink may be sold in the county under this act for consumption on the premises or by a retail establishment for consumption off the premises, in addition to beer and wine, on Sunday. The sale shall not be permitted in a city, village, or township in which the sale of spirits and mixed spirit drink is prohibited under this act. A violation of this section is a misdemeanor. This section does not apply to spirits and mixed spirit drink served to a bona fide guest in the residence of a person or sold or furnished for medicinal purposes as provided for in this act.

(5) A licensee enumerated under section 525 or any other person shall not sell at retail, and a person shall not knowingly and willfully buy, alcoholic liquor between the hours of 9 p.m. on December 24 and 7 a.m. on December 26. If December 26 falls on Sunday, the hours of closing shall be determined pursuant to this act. The legislative body of a city, village, or township, by resolution or ordinance, may prohibit the sale of alcoholic liquor on Sunday or a legal holiday, primary election day, general election day, or municipal election day.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998;—Am. 2004, Act 134, Imd. Eff. June 7, 2004.

436.2114 Selling, giving away, furnishing, or buying alcoholic liquor or spirits on Sunday.

Sec. 1114. (1) Notwithstanding R 436.1403 and R 436.1503 of the Michigan administrative code and except as otherwise provided under this act or rule of the commission, an on-premises and an off-premises

licensee shall not sell, give away, or furnish alcoholic liquor between the hours of 2 a.m. and 7 a.m. on any day and shall not sell, give away, or furnish alcoholic liquor between the hours of 2 a.m. and 12 noon, EST, on Sunday. An on-premises and an off-premises licensee shall not sell, give away, or furnish spirits between the hours of 2 a.m. and 12 midnight on Sunday, unless issued a Sunday sales permit by the commission that allows the licensee to sell spirits on Sunday between the hours of 12 noon, EST, and 12 midnight.

(2) For purposes of R 436.1403 and R 436.1503 of the Michigan administrative code, 12 noon on Sunday is considered 12 noon on Sunday, EST, for any licensee located in the central time zone.

(3) A reference to the time of day under this act or a rule of the commission includes daylight savings time, when observed.

History: Add. 2004, Act 134, Imd. Eff. June 7, 2004.

436.2115 Sale of spirits or mixed spirit drink on Sunday; additional fee; disposition of revenue.

Sec. 1115. (1) A licensee who elects to sell spirits or mixed spirit drink on Sunday under section 1113 shall not do so until he or she first pays to the commission an additional fee in the amount of 15% of the fee charged for the issuance of his or her license.

(2) The revenue received from subsection (1) shall be deposited with the state treasurer in a special fund to be used only by the department of public health in programs for the treatment of alcoholics.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.